IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE V.K.MOHANAN

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

RFA.No. 292 of 2007()

OS.284/2002 of I ADDL.SUB COURT,TRIVANDRUM
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APPELLANTS/DEFENDANTS:
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1. M/S.KAIRALI ENTERPRISES, REPRESENTED BY ITS PROPRIETRIX, SEENATH BEEVI, MUSLIM, FEMALE, AGED 30, PROPRIETRIX, KAIRALI ENTERPRISES, ALUNINNAVILA, DARSAN NAGAR, POONKULAM WEST, VELLAYANAI.P.O.,THIRUVANANTHAPURAM.

2. SEENATH BEEVI, W/O.MOHAMMED PRADEEP, MUSLIM, AGED 30, PROPRIETRIX, KAIRALI ENTERPRISES, ALUNINNAVILA, DARSAN NAGAR, POONKULAM WEST, VELLAYANAI.P.O., THIRUVANANTHAPURAM.

3. MOHAMMED PRADEEP, MUSLIM MALE, AGED 30, PROPRIETOR, DO. DO. DO.

BY ADV. SRI.N.N.SUGUNAPALAN (SR.)
SRI.S.SUJIN

RESPONDENT/PLAINTIFF:

QUILON RADIO SERVICE, A REGISTERED PARTNERSHIP FIRM, REPRESENTED BY ITS PARTNER, G.GAUTHAMAN, AGD 52, PARTNER, QUILON RADIO SERVICE M.G.ROAD, PUTHENCHANTHA, THIRUVANANTHAPURAM.

BY ADV. SRI.V.V.SIDHARTHAN

THIS REGULAR FIRST APPEAL HAVING COME UP FOR ADMISSION ON 07/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & V.K.MOHANAN, JJ.

R.F.A.NO.292 OF 2007

Dated this the 7th day of September, 2007

JUDGMENT

Raman, J.

This is an appeal filed by the defendants in the suit O.S.No.284/2002 on the file of the Ist Additional Sub Court, Thiruvananthapuram. It is a suit for money. As per the plaint averments, the plaintiff is a registered partnership firm doing business of sale and distribution of electrical appliances and electronic appliances. The lst defendant is a proprietary concern. Defendants 2 and 3 are hushand and wife. They are doing business of electronic goods. The plaintiff supplied electronic goods to the lst defendant on credit and the goods were supplied by invoices of the firm. As per the terms of the contract, payments to be made within one month from the date of the invoice and on failure, the amount would carry 24% interest. For the period from 12/8/1999 to 14/10/1999 goods were supplied on credit to the lst defendant vide invoices No.925881 to 930172 for an amount of Rs.5,33,080/-. Defendants 2 and 3 issued cheques for various amounts against those invoices. 20 cheques were issued in favour of the firm which were subsequently dishonoured. Criminal proceedings were also initiated under Section 138 of the

Negotiable Instruments Act before the Magistrate's Court, Thruvananthapuram. According to the plaintiff, an amount of Rs.5,33,008/- with interest is due from the defendants. After issuing notice, the plaintiff instituted a suit for realisation of the total amount of Rs.7,76,101/- with interest at 18% per annum.

2. Defendants filed their joint written statement. According to them, no amount is due from them to the plaintiff and blank cheques were given towards security for each purchase at the time of transaction. Amounts were received by the plaintiff in instalments from the show room of the defendants periodically. But still blank cheques were not returned. According to them, the entire amounts have been paid off . It is contended that the invoices produced are not related to the purchase made by them.

3. Plaintiff was examined as PW-1 and marked Exts.A1 to A16. But the defendants did not mount the box nor produce any documentary evidence. This is a case where total lack of evidence on the part of the defendants in support of their case. The court below, after appreciating the evidence both oral and documentary adduced by the plaintiff, came to the conclusion that the amount alleged to be due as per the plaint is correct.

The court below has discussed the evidence in detail in paragraph 7 of the judgment while considering Issue No.(ii).

4. We have heard the counsel appearing for the appellant and perused the judgment. We do not find any error of fact or law in the judgment under appeal and that the conclusion reached by the court below is a probable conclusion based on the evidence on record. In the circumstances, there is no merit in this appeal.

Appeal is accordingly dismissed.

P.R.RAMAN,
Judge.

V.K.MOHANAN,
Judge.

kcv.